

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF HUMAN RIGHTS

State of Minnesota, by David Beaulieu,
Commissioner, Department of Human
Rights,

Complainant,

v.

Ralph E. Sheffey,

Respondent.

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AWARD OF LITIGATION
EXPENSES

The above-entitled matter came on for hearing before Administrative Law Judge Barbara L. Neilson, on December 19, 1994, in the County Board Room, Rochester Government Center, Rochester, Minnesota. Erica Jacobson, Assistant Attorney General, Suite 1200, 445 Minnesota Street, St. Paul, Minnesota 55101, appeared on behalf of the Complainant. Ralph E. Sheffey, Attorney at Law, 500 Meadow Run Drive S.W., Rochester, Minnesota 55902, the Respondent, appeared on his own behalf.

On March 30, 1995, a decision was issued in the above case in which the Administrative Law Judge found that the Respondent had discriminated against the Charging Party, Cynthia Ryan, in her employment and awarded damages for violation of the Minnesota Human Rights Act. As part of the Order, the Administrative Law Judge determined that it was appropriate to award costs and reasonable attorney's fees. Because those issues were not addressed in the Posthearing Briefs, counsel for the Complainant was permitted thirty days to file a petition for reimbursement of costs and attorney's fees, and the Respondent was given an opportunity to respond to the Complainant's petition within twenty calendar days of his receipt of the petition.

The Complainant filed a Petition for Reimbursement of Litigation Expenses and a Petition for Reimbursement of the Fees and Expenses of Ms. Ryan's Attorney (Daniel Heuel). The Respondent did not file any response to the Complainant's submissions. By letter dated June 2, 1995, the Administrative Law Judge informed the parties that additional information was necessary to evaluate the reasonableness of the fees charged by Mr. Heuel and his investigator, and allowed the Complainant additional time to supplement its petition for fees and expenses and the Respondent additional time to respond. On June 12, 1995, the Complainant filed a notification that it was withdrawing its petition for reimbursement of Mr. Heuel's fees and expenses. The Respondent did not submit any response. The record remained open until June 26, 1995, for receipt of the Respondent's response.

Based upon all of the files, records, and proceedings herein, and for the reasons set forth in the accompanying Memorandum, the Administrative Law Judge makes the following:

ORDER

The Respondent, Ralph E. Sheffey, shall forthwith pay litigation expenses to the Commissioner of Human Rights of the State of Minnesota in the amount of \$7,203.11.

Dated: July _____, 1995

BARBARA L. NEILSON
Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 363.071, subd. 2 and 3, this Order is the final decision in this case. Under Minn. Stat. § 363.072, the Commissioner of the Department of Human Rights or any other person aggrieved by this decision may seek judicial review pursuant to Minn. Stat. §§ 14.63 through 14.69.

MEMORANDUM

The Minnesota Human Rights Act expressly permits the award of litigation fees and costs to a prevailing plaintiff. The Act provides in relevant part as follows:

The administrative law judge shall order a respondent who is determined to have engaged in an unfair discriminatory practice to reimburse the department and the attorney general for all appropriate litigation and hearing costs expended in preparing for and conducting the hearing, unless payment of the costs would impose a financial hardship on the respondent. Appropriate costs include but are not limited to the costs of services rendered by the attorney general, private attorneys if engaged by the department, administrative law judges, court reporters, and expert witnesses as well as the costs of transcripts and other necessary supplies and materials.

Minn. Stat. § 363.071, subd. 7 (1992).

In its Petition, the Complainant seeks reimbursement for amounts billed by the Office of Administrative Hearings to the Department of Human Rights for hearing preparation, correspondence review, correspondence dictation, prehearing conferences, interim order preparation, presiding at the hearing, travel expenses, legal research, and preparation and review of the report in this matter. The Complainant also requests reimbursement for the costs of service of process, deposition reporting fees, and the fees charged by the court reporter for attending the hearing and preparing a transcript.

All of the charged items are costs that are appropriately permitted to be recovered by Minn. Stat. § 363.071, subd. 7. The Respondent has not objected to the reasonableness or accuracy of the costs sought by the Complainant or presented any argument that payment of these expenses would impose a financial hardship on him. Although the Respondent has apparently filed for bankruptcy under Chapter 13, It was determined at the time of the March 30, 1995, decision in this matter that the filing of the bankruptcy petition does not preclude the Administrative Law Judge from ordering payments to be made for violations of the Act or reimbursement of hearing expenses. Moreover, it was determined that the Respondent's financial condition would not be taken into consideration in setting punitive damages due to his failure to provide relevant financial information. The same determination applies to the Complainant's current request for reimbursement of litigation expenses.

Accordingly, the Complainant's Petition for Reimbursement of Litigation Expenses has been GRANTED.

B.L.N.